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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,109	10/29/2003	Robert Wright	030305 (BLL-0114)	6914

7590 06/06/2007
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EXAMINER

PYO, MONICA M

ART UNIT	PAPER NUMBER
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2161

MAIL DATE	DELIVERY MODE
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06/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/696,109	Applicant(s) WRIGHT ET AL.	
	Examiner Monica M. Pyo	Art Unit 2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/13/2007 has been entered.
2. Claims 1-21 are currently pending in this application. Claims 1, 16 and 21 are independent claims. In the Amendment filed 3/13/2007, claims 1, 5-6, 9-10, 15-16 and 21 were amended.

Claim Objections

3. The claim amendment received on 3/13/2007. The changes are acknowledged and therefore, the claim objections made in a prior Office Action are withdrawn.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 6-8, 10-13, 15-16 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over International Application Publication Number WO 02/054708 by Redmond (hereinafter Redmond) in view of U.S. Patent No. 6,757,691 issued to Welsh et al. (hereinafter Welsh).

Regarding Claim 1, Redmond discloses that it is well known in the art that a method for providing delivery of a segmented data file comprising:

- A). **receiving a request to send the segmented data file to a target device**, as requests are received from clients (Redmond: pg. 3, lns. 25-35; pg. 5, lns. 17-19; fig. 1);
- B). **for one or more segments included in the segmented data file, wherein at least one of the one or more segments included in the segmented data file corresponds to a plurality of source locations**, as segmented data files are stored in plurality of segment storages (Redmond: pg. 4, lns. 2-6; pg. 6, lns. 4-11); **and**
- C). **for at least one of the one or more segments**, as segmented data files (Redmond: pg. 6, lns. 4-11):
- D) **determining one or more of the source locations containing a data bundle corresponding to the at least one of the one or more segment**, as to determine the load and operational status of the various of nodes and servers (Redmond: pg. 6, lns. 20-34);
- E). **for the at least one of the one or more segments, wherein the data bundle is retrievable from any of the determined source locations corresponding to the at least one of the one or more segments**, as to deliver user requested content from determined segmented data file storages (Redmond: pg. 6, lns. 20-34; pg. 8, lns. 1-9); **and**
- F). **transmitting said data bundle from each said selected source location to said target device**, as a display of requested media content (Redmond: pg. 7, lns. 1-13).

Redmond does not explicitly disclose:

- B). **querying a directory;**

E). selecting one of the source locations;

However, Welsh discloses:

B). querying a directory as a content category associated with the received content choices are determined (Welsh: col. 1, lns. 63-67; col. 2, lns. 1-15; col. 4, lns. 21-27);

E). selecting one of the source locations, as a user being able to access by specifying a network address (Welsh: col. 1, lns. 63-col. 2, lns. 15).

It would have been obvious to a person with ordinary skill in the art at the time of invention to modify the teachings of Redmond with the teachings of Welsh to utilize the content choice by searching a profile database with the motivation to enhance managing user's content choice (Welsh: abstract).

Regarding Claim 2, Redmond and Welsh disclose the method further comprising updating said directory with pointers to said target device for each said data bundle transmitted to said target device (Redmond: pg. 7, lns. 1-13) and (Welsh: col. 2, lns. 8-15; col. 5, lns. 38-40).

Regarding Claim 3, Redmond and Welsh disclose the method wherein said request is from said target device (Redmond: pg. 5, lns. 14-23) and (Welsh: col. 1, lns. 63-66).

Regarding Claim 6, Redmond and Welsh disclose the method further comprising:
receiving a data file (Welsh: col. 1, lns. 35-39 & 63-66; fig. 2);
segmenting said data file into data bundles (Redmond: pg. 5, lns. 14-23; pg. 8, lns. 10-18);

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staging said data bundles to one or more said source locations (Redmond: pg. 8, lns. 1-9; pg. 13, lns. 10-13) and (Welsh: col. 1, lns. 63-67; col. 2, lns. 1-15); and

updating said directory to reflect said data bundles and said source locations for said data file as said segmented data file (Redmond: pg. 8, lns. 1-9) and (Welsh: col. 2, lns. 1-15; col. 5, lns. 38-40).

Regarding Claim 7, Redmond and Welsh disclose the method wherein said selecting is responsive to a network topology (Welsh: col. 1, lns. 56-62).

Regarding Claim 8, Redmond and Welsh disclose the method wherein said selecting is responsive to capabilities at said one or more source locations (Redmond: pg. 6, lns. 20-34) and (Welsh: col. 2, lns. 5-15).

Regarding Claim 10, Redmond and Welsh disclose the method wherein said segmented data file includes one or more of audio and video (Redmond: pg. 2, lns. 4-10) and (Welsh: col. 1, lns. 1-19).

Regarding Claim 11, Redmond and Welsh disclose the method wherein said target device is a personal computer (Welsh: col. 1, lns. 35-39).

Regarding Claim 12, Redmond and Welsh disclose the method wherein said target device includes a video server (Welsh: col. 1, lns. 1-19).

Regarding Claim 13, Redmond and Welsh disclose the method wherein said target device includes an audio server (Welsh: col. 1, lns. 1-19).

Regarding Claim 15, Redmond and Welsh disclose the method wherein said target device is any device capable of storing said segmented data file (Redmond: pg. 3, lns. 1-5) and (Welsh: Welsh: col. 1, lns. 19-24).

Regarding Claim 16, Redmond and Welsh disclose all the limitations as recited in claim 1. Additionally, Redmond and Welsh disclose a system for providing delivery of a segmented data file comprising:

- A). **the segmented data file accessible via a network**, as resources being available in a network (Redmond: pg. 8, lns. 19-29);
- B). **a directory accessible via the network**, as various resources being accessible via a network (Welsh: col. 2, lns. 8-15);
- C). **a target device in communication with the network**, as a delivering and serving media content via a distributed network (Redmond: pg. 3, lns. 9-19); and
- D). **a network element in communication with the network including instructions to implement a method including**, as the Neuro Center manages all requests for media content and is accessible via an internetwork (Redmond: pg. 5, lns. 14-33):

Regarding Claim 18, Redmond and Welsh disclose the system wherein said network includes the Internet (Welsh: col. 1, lns. 56-59).

Regarding Claim 19, Redmond and Welsh disclose the system wherein said network includes a broadband network (Welsh: col. 5, lns. 43-47).

Regarding Claim 20, Redmond and Welsh disclose the system wherein said network is any network capable of transmitting data from one location to another location (Welsh: col. 1, lns. 35-39 & 46-51).

Regarding Claim 21, Redmond and Welsh disclose all the limitations as recited in claim 1. Additionally, Welsh discloses a computer program product for providing delivery of segmented data files, the computer program product comprising:

a storage medium readable by a processing circuit and storing instructions for execution by the processing circuit for performing a method comprising, as the system (Welsh: col. 1, lns. 19-29):

6. Claims 4 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redmond in view of Welsh applied to claims 1-3, 6-8, 10-13, 15-16 and 18-21 above, and further in view of U.S. Patent No. 6,862,594 issued to Saulpaugh (hereafter Saulpaugh).

Regarding Claim 4, Redmond and Welsj do not explicitly disclose the method further comprising retransmitting said data bundle from one of said selected source locations in response to a transmission error.

However, Saulpaugh disclose the method further comprising retransmitting said data bundle from one of said selected source locations in response to a transmission error (Saulpaugh: col. 54, lns. 50-61).

It would have been obvious to a person with ordinary skill in the art at the time of invention to modify the teachings of Redmond and the teachings of Welsh with the teachings of Saulpaugh to utilize the retransmission of data when an error occurs with the motivation to enhance accessing a service in a distributed computing environment (Saulpaugh: col. 8, lns. 27-36).

Regarding Claim 17, Redmond and Welsh and Saulpaugh disclose the system wherein said network includes a wireless network (Saulpaugh: col. 15, lns. 33-42).

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Redmond in view of Welsh as applied to claims 1-3, 6-8, 10-13, 15-16 and 18-21 above, and further in view of U.S. Patent Application Publication No. 2004/0236785 by Greiner (hereafter Greiner).

Regarding Claim 5, Redmond and Welsh disclose the method further comprising said segmented data file from said data bundles (Redmond: pg. 8, lns. 10-18).

Redmond and Welsh do not explicitly disclose: transmitting instructions for reassembling

However, Greiner disclose transmitting instructions for reassembling (Greiner: [0042], Ins. 4-7 & 11-16).

It would have been obvious to a person with ordinary skill in the art at the time of invention to modify the teachings of Redmond and the teachings of Welsh with the teachings of Greiner to utilize the transmitting the instruction to reassemble the data with the motivation to enhance the method and system for uploading data from first device to second device over a communication network (Greiner: [0006], Ins. 1-5).

8. Claims 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redmond in view of Welsh as applied to claims 1-3, 6-8, 10-13, 15-16 and 18-21 above, and further in view of U.S. Patent No. 6,486,892 issued to Stern (hereafter Stern).

Regarding Claim 9, Redmond and Welsh do not disclose the method wherein said segmented data file includes one or more of a software package, a software patch and a software upgrade.

However, Stern disclose the method wherein said data file includes one or more of a software package, a software patch and a software upgrade (Stern: col. 7, Ins. 45-50).

It would have been obvious to a person with ordinary skill in the art at the time of invention to modify the teachings of Redmond and the teachings of Welsh with the teachings of Stern to utilize the method of receiving periodic updates of predetermined information with the motivation to enhance the periodic and automatic queries to sites containing information relevant to the user (Stern: col. 1, Ins. 50-56).

Regarding Claim 14, Redmond and Welsh and Stern disclose wherein said target device is a hand held device with storage capability including one or more of a telephone, a personal digital assistant and an audio player (Welsh: col. 1, lns. 1-19) and (Stern: col. 7, lns. 61-67).

Response to Arguments

9. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica M. Pyo whose telephone number is 571-272-8192. The examiner can normally be reached on Mon & Thur 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Monica M Pyo
Examiner
Art Unit 2161

mpyo
5/24/2007



Leslie Wong
Primary Examiner